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July 17, 2012

VIA ECF AND FIRST-CLASS MAIL

Honorable Esther Salas, U.S.D.J.

United States District Court for the District of New Jersey
Martin Luther King, Jr. Building and U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

**Re: Nautilus Neurosciences, Inc. et al. v. Wockhardt USA LLC et al. Nautilus Neurosciences, Inc. et al. v. Edict Pharma. Pvt. Ltd.
Civil Action Nos. 2:11-1997; 2:11-4183; 2:12-1243 (ES/CLW)**

Dear Judge Salas:

This firm, together with Willkie Farr & Gallagher LLP, represents Plaintiffs Nautilus Neurosciences, Inc. and APR Applied Pharma Research SA (collectively, "Plaintiffs") in connection with the above-referenced matters. We write to update the Court on certain issues related to the Opening Markman briefs filed on July 3, 2012 and the potential deposition of Dr. Alan Rapoport, who submitted a Declaration in support of Plaintiffs' Opening Markman submission. For the reasons set forth below, the Court no longer needs to consider the Declaration of Dr. Alan Rapoport ("the Rapoport Declaration") in connection with the Markman submission. (See Civ. Action No. 11-1997, Dkt. No. 67-2 and 67-3).

As of the parties' filing of the Updated Joint Claim Construction and Prehearing Statement on June 25, 2012, (*Id.* at Dkt. No. 65), and up until the parties' filing of their respective Opening Markman submissions on the evening of July 3, 2012, (*Id.* at Dkt. Nos. 67 & 68), Defendants had asserted indefiniteness arguments as to the following three claim terms: "method of treating pain" in the '377 patent, "method of treating recurrent migraine requiring 24 hour treatment" in the '394 patent, and "recurrent migraine." In response to Defendants' arguments on those three claim terms, Plaintiffs proffered the Rapoport Declaration. Nevertheless, in Defendants' Opening Markman

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Submission, (*Id.* at Dkt. No. 68), Defendants revealed that they no longer intended to introduce evidence or argue that those three claim terms are indefinite during the Markman process.

In light of Defendants' change in position, Plaintiffs no longer intend to rely on the Rapoport Declaration in connection with the Markman proceeding and the Court need not consider it. As a result, the parties have agreed that the Deposition of Dr. Rapoport is not appropriate at this point in time pursuant to the Local Patent Rules.

We are available at the Court's convenience and discretion should Your Honor wish to discuss this matter. We appreciate the Court's continued attention to this matter.

Respectfully submitted,

s/Liza M. Walsh

Liza M. Walsh

cc: All Counsel of Record (via ECF and email)